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Reply to Office Action of April 16, 2008

REMARKS

Favorable reconsideration of this application in light of the following claim amendments and remarks is respectfully requested.

Claims 1, 3, 4, 6-12, 15 and 16 are pending in the present application. By this amendment, claims 8-11 have been amended. No new matter is involved.

Rejection under 35 U.S.C. § 112, Second Paragraph

Claims 8, 9, 11 and 12 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. This rejection is respectfully traversed.

Claims 8 and 9 are amended to clarify the term "securing mechanism."

Claim 11 is amended to provide number consistency between the holes and the screws. Applicant also notes that claim 10, from which claim 11 depends, is amended to depend directly from claim 1.

These amendments do not narrow the scope of the claims that are being amended. Instead, they clarify the meanings of those claims.

Reconsideration and withdrawal of this rejection of claims 8, 9, 11 and 12 are respectfully requested.

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Rejections under 35 U.S.C. § 103

Claims 1, 3, 4, 6-12, 15 and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Applicant's admitted prior art (AAPA) in view of U. S. Patent 5,542,795 to Mitchell. This rejection is respectfully traversed.

Because the rejection is based on 35 U.S.C. § 103, what is in issue in such a rejection is "the invention as a whole," not just a few features of the claimed invention. Under 35 U.S.C. § 103, "[a] patent may not be obtained . . . if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The determination under Section 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. *See In re O'Farrell*, 853 F.2d 894, 902, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). In determining obviousness, the invention must be considered as a whole and the claims must be considered in their entirety. *See Medtronic, Inc. v. Cardiac Pacemakers, Inc.*, 721 F.2d 1563, 1567, 220 USPQ 97, 101 (Fed. Cir. 1983).

In rejecting claims under 35 U.S.C. § 103, it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), and to provide a reason why one of ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed

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invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroyal Inc. v. F-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 825 (1988); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986); *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. *See In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). The mere fact that the prior art may be modified in the manner suggested by the

Examiner does not make the modification obvious unless the prior art suggested the desirability

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